IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Writ Petition No.481 of 2007

Savitra Arun Salvi & ors. Petitioners
Vs.
Suman Shivajirao Navagire & ors. Respondents

Mr.P.K.Hushing for petitioners.
Mr.D.M.Gupte for resp.no.2.

CORAM: B.H.MARLAPALLE, J.

April 13, 2007.

P.C.

. This writ petition filed under Article 227 of the Constitution arises from an interlocutory order passed by the learned Judge of the 2nd Small Causes Court at Pune on 2/8/2000. It appears that the possession warrant was issued in Darkhast No.82 of 2000 and thereafter the preset petitioners filed an application at Exhibit 22 praying for stay to the execution proceedings. The said application has been rejected by the impugned order and on the ground that the total amount of Rs.5100/- was not deposited by the judgment debtor by 2/7/1999 or by 9/7/1999 as the case may be and even though in the application submitted on 9/7/1999, a week's time was prayed for to deposit the balance amount of Rs.600/-, the amount was ultimately deposited on 20/7/1999. The Court below, therefore, relied upon the decision in the

case of Sonusing vs. Bansi Chindu **(1993 Mh. L. J. 1141)** and rejected the application by the impugned order.

. The impugned order was initially challenged by filing a civil revision application i.e. CRA No. 1103 of 2000 and on 21/11/2000 the impugned order was stayed. The CRA was dismissed on 7/12/2006 with an observation that the CRA was not maintainable against the impugned order and, therefore, it was disposed with liberty to take out appropriate proceedings and that is how this petition has been moved subsequently.

. The fact remains that the impugned order has remained stayed all along and there is no reason why the execution proceedings should not proceed further. At the same time it is not known whether the petitioners have remitted the rental amount during the last seven years or so and these are all the issues which the executing court can consider. Under these circumstances, there is no necessity to keep this petition pending any further.

. Hence the writ petition is disposed off by

directing the Darkhast No.82 of 2000 to be heard and decided expeditiously. In case the petitioners desire to apply for stay to the possession warrant, such an application can be considered more appropriately by the executing Court, if the same is filed within a period of one week from today and providing all the other details.

. Petition is disposed accordingly. The order of stay granted initially will continue to operate for a period of one more week.

(B.H.MARL